



December 17, 2014

Attn: Rick Bennion
Regulations Coordinator
State Board of Equalization
450 N Street, MIC: 80
Sacramento, CA 94279-0080
Transmitted via e-mail: Richard.Bennion@boe.ca.gov

Re: Request to Reject Re-Adoption of Property Tax Rule 474, *Petroleum Refining Properties*

Dear Mr. Bennion:

The California Taxpayers Association respectfully requests that the State Board of Equalization (Board) reject proposed Property Tax Rule 474, and submits the following comments and objections to the rule, which is scheduled for a public hearing on December 18, 2014. Please include this letter in the Board's official rulemaking file for Rule 474.

CalTax is a nonprofit, nonpartisan research and advocacy association founded in 1926 with a dual mission: to guard against unnecessary taxation, and to ensure that government spending of taxpayer dollars is efficient and appropriate as possible. CalTax's membership includes many businesses across all industries, ranging from small firms to Fortune 500 companies, and is dedicated to the uniform and equitable administration of taxes and minimizing the cost of tax administration and compliance.

In considering the re-adoption of Rule 474, CalTax is interested in preserving the integrity of the Administrative Procedures Act (APA), Government Code §§11346.2(b)(5)(A), 11346.3 and 11346.5(a)(8), as well as the California Supreme Court's directive in *Western States Petroleum Assn. v. Board of Equalization* (2013) 57 Cal.4th 401 (2013), which determined that the original Rule 474 was invalid due to its lack of an economic impact analysis.

CalTax has significant concerns about re-adoption of Rule 474, including the Board's failure to follow the APA rules and to comply with Government Code §§11346.2(b)(5)(A), 11346.3 and 11346.5(a)(8). Until the Board has substantially complied with these statutory and regulatory requirements, the Board must reject Rule 474's re-adoption, and the rule must continue to be found invalid.

Pursuant to Government Code §11346.3(a), the Board must address as part of its economic impact analysis the potential for adverse economic impact. This requires the agency to base the regulation

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on adequate information regarding the need for, and consequences of, the proposed rule; and to “consider the proposal’s impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states.”

The Board’s proposed economic impact analysis fails to assess: whether and to what extent the proposed rule will affect the creation or elimination of jobs within the state; the creation of new businesses or the elimination of existing businesses within the state; the expansion of businesses currently doing business within the state; and the benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

The Supreme Court set a clear mandate on the Board for its regulations to satisfy the APA. However, the Board’s proposed economic impact analysis fails to make a reasoned estimate of all the cost impacts of the rule on affected parties. The Board’s economic impact analysis does not consider the full economic impact of the rule, and, therefore, does not comply with the Supreme Court’s mandate. For these reasons, the Board should reject proposed Rule 474.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Gina Rodriguez". The signature is written in a cursive, flowing style.

Gina Rodriguez, Vice President of State Tax Policy
California Taxpayers Association